

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of  ATEAM MOVING, LLC,  for Compliance with WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570	DOCKETS TV-210962 and TV-210963 <i>(Consolidated)</i>  INITIAL ORDER 01  APPROVING SAFETY MANAGEMENT PLAN; UPGRADING SAFETY RATING TO CONDITIONAL AND EXTENDING PROVISIONAL PERIOD; IMPOSING AND SUSPENDING PENALTIES SUBJECT TO CONDITIONS
In the Matter of the Penalty Assessment Against  ATEAM MOVING, LLC,  in the Amount of \$4,300	

**BACKGROUND**

- 1 On December 22, 2021, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Intent to Cancel and Notice of Brief Adjudicative Proceeding; Setting Time for Oral Statements in the Matter of the Investigation of ATeam Moving, LLC, (ATeam Moving or the Company) for Compliance with Washington Administrative Code (WAC) 480-15-555, 480-15-560, and 480-15-570 (Notice).
- 2 The Notice explained that Commission staff (Staff) concluded a compliance review of ATeam Moving's operations on December 15, 2021, and documented 110 violations of federal and state safety regulations, including 101 critical or critical-type violations, resulting in a proposed unsatisfactory safety rating. Based on its review, Staff recommended the Commission cancel ATeam Moving's household goods carrier permit unless the Company obtained Commission approval of a safety management plan. The Notice directed ATeam Moving to file a proposed safety management plan by January 19, 2022. The Commission also set a brief adjudicative proceeding for

**Pursuant to RCW 80.01.060(3)  
This packet is the final  
Order in this docket.**

February 2, 2022, at 1:30 p.m. to determine whether the Commission should cancel ATeam Moving's household goods carrier permit.

3 On December 21, 2021, the Commission assessed a \$4,300 penalty (Penalty Assessment) in Docket TV-210963 against ATeam Moving for the 103 violations discovered during Staff's compliance review that warranted penalties.<sup>1</sup> The Penalty Assessment includes:

- A \$300 penalty for 3 critical violations of WAC 480-15-555 for failing to conduct or retain paperwork containing criminal background checks or hiring an individual with a disqualifying conviction for a household goods carrier in the state of Washington;
- a \$3,600 penalty for 36 critical violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified;
- a \$100 penalty for 2 critical violations of 49 C.F.R. § 391.51(a) for failing to maintain driver qualification file on each driver employed;
- a \$100 penalty for 60 critical violations of 49 C.F.R. § 395.8(a)(1) for failing to require drivers to make records of duty status.
- a \$100 penalty for 1 violation of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance; and
- a \$100 penalty for 1 violations of 49 C.F.R. § 396.17(a) for using a commercial motor vehicle not periodically inspected.

4 On February 2, 2022, the Commission held a virtual brief adjudicative proceeding (BAP) before Administrative Law Judge Andrew J. O'Connell to determine whether the Commission should cancel the Company's provisional household goods carrier permit. Judge O'Connell consolidated Dockets TV-210962 and TV-210963 at the outset of the BAP with the assent of the parties. Commission investigators Cobile and Sharp testified on behalf of Staff. Daniel Bolman testified on behalf of the Company. Judge O'Connell determined that the Company had until February 11, 2022, to submit an acceptable safety management plan and that the Commission would issue an Order in these consolidated dockets by February 14, 2022.

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<sup>1</sup> The Penalty Assessment cites violations of Washington Administrative Code (WAC) 480-15-555, WAC 480-15-560, and WAC 480-15-570. WAC 480-15-560 and -570 adopt by reference sections of Title 49 Code of Federal Regulations (C.F.R.). Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of Title 49 C.F.R.

5 On February 8, 2022, ATeam Moving submitted a request for mitigation, admitting the  
violations and requesting the Commission assess a reduced penalty based.

6 On February 10, 2022, ATeam Moving submitted a proposed safety management plan.

7 Also on February 10, 2022, Staff filed with the Commission in these consolidated  
dockets an evaluation of the Company's safety management plan (Evaluation). Staff  
determined, based on its review of the Company's proposed plan, that the Company took  
all of the required steps to bring its safety operations into compliance with Commission  
regulations. Staff recommends that the Commission not cancel the Company's certificate,  
upgrade the proposed unsatisfactory safety rating to conditional, and also extend the  
Company's provisional permit period until such time as the Company is able to achieve a  
satisfactory safety rating. Staff further recommends, in response to the Company's  
request for mitigation, that the Commission assess a reduced penalty of \$2,350 and  
suspend a \$1,350 portion of the penalty for a period of two years, and then waive it,  
subject to the following conditions:

- (1) Staff must conduct a follow-up safety investigation at least six months from the  
effective date of this Order;
- (2) the Company must not incur any repeat critical violations upon re-inspection;
- (3) the Company must maintain a conditional safety rating, and
- (4) the Company must pay the \$1,000 portion of the penalty that is not suspended  
within 10 days of the effective date of this Order.

## DISCUSSION AND DECISION

### 1. Consolidation

8 These dockets were consolidated because the violations cited in Staff's investigation gave  
rise to the enforcement actions taken in both dockets. In addition, all parties agreed the  
docket should be consolidated.

### 2. Safety Rating

9 Washington Law requires household goods carriers to comply with federal safety  
requirements and undergo routine safety inspections. Staff's compliance review of  
ATeam Moving found 101 individual critical violations and 2 other individual violations

warranting penalties according to the Commission's Enforcement Policy. Staff's review also resulted in a proposed unsatisfactory safety rating for the Company. Violations classified as "critical" are indicative of a breakdown in a carrier's management controls. Patterns of noncompliance with a critical regulation are quantitatively linked to inadequate safety management controls and usually higher-than-average accident rates.

10 On February 10, 2022, the Company submitted its proposed safety management plan and requested the Commission not cancel its certificate. Staff determined that ATeam Moving's safety management plan describes how the Company remedied the violations, including developing a compliant safety program and implementing a system that, if followed, should prevent future repeat violations. Staff concludes that ATeam Moving's safety management plan is acceptable and satisfies the legal requirements of 49 C.F.R. Part 385. We agree.

11 Based on Staff's Evaluation, the Commission finds that the Company has achieved compliance with Chapter 480-15 WAC by correcting the violations that led to the proposed unsatisfactory safety rating. Accordingly, the Commission agrees with Staff's recommendation and grants the Company's request to not cancel its permit and upgrade its safety rating to conditional.

12 We likewise agree with Staff's recommendation to extend the Company's provisional period for its household goods carrier permit. Prior to a grant of permanent authority, an applicant must complete a provisional period of not less than six months and not more than 18 months unless the Commission determines for good cause that the provisional period should be extended.<sup>2</sup> Good cause may include, among other things, a carrier that has not yet achieved a satisfactory safety rating but is making substantial progress toward a satisfactory rating. Here, the Company has corrected the violations at issue and demonstrated that it has taken significant steps to ensure its operations comply with applicable safety regulations. Accordingly, the Commission finds good cause to extend the Company's provisional period until such time as the Company achieves a satisfactory rating.

### 3. Penalty

13 Violations discovered during safety inspections are subject to penalties of \$100 per violation.<sup>3</sup> In some cases, Commission requirements are so fundamental to safe

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<sup>2</sup> WAC 480-15-305(1)(b).

<sup>3</sup> See RCW 80.04.405.

operations that the Commission will issue penalties for first-time violations.<sup>4</sup> Critical violations meet this standard.<sup>5</sup>

14 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring compliance.<sup>6</sup>

15 Here, Staff recommends the Commission assess a reduced penalty of \$2,350. We agree with Staff's recommendation. The Company provided a comprehensive safety management plan that details the steps it has taken to bring its operations into compliance with applicable regulations. The safety management plan addresses each violation, describes the steps taken to correct them, and put a system in place to ensure the Company maintains compliance. Accordingly, we are satisfied that ATeam Moving has cured the violations that gave rise to the Penalty Assessment and has put adequate controls in place to prevent the violations from reoccurring. In addition, the Company operates one commercial motor vehicle, employs two drivers, and reported \$100,000 in gross revenue for 2020. We conclude that a \$2,350 penalty provides a strong financial incentive for the Company to maintain compliance going forward.

#### 4. Suspended Penalty

16 The Commission considers several factors in determining whether to suspend a portion of a penalty, including whether it is a first-time penalty for the same or similar violations, and whether specific actions have been taken to remedy the violations and avoid the same or similar violations in the future, such as purchasing new technology, making system changes, or training company personnel.<sup>7</sup> Another factor we consider is whether a company agrees to a specific compliance plan that will guarantee future compliance in exchange for suspended penalties.<sup>8</sup>

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<sup>4</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶ 12, 15 (Jan. 7, 2013) (Enforcement Policy).

<sup>5</sup> 49 C.F.R. § 385, Appendix B.

<sup>6</sup> Enforcement Policy at ¶ 19.

<sup>7</sup> *Id.* at ¶ 20.

<sup>8</sup> *Id.*

17 In this case, penalties were assessed for first-time violations. In addition, the Company has taken action to prevent each of the violations from reoccurring. Suspending a portion of the penalty with the conditions proposed by Staff will both increase compliance and provide a strong incentive to avoid violations in the future. Accordingly, we agree with Staff's recommendation and suspend a \$1,350 portion of the penalty for a period of two years, and then waive it, subject to the following conditions:

- (1) Staff must conduct a follow-up safety investigation at least six months from the effective date of this Order;
- (2) the Company must not incur any repeat critical violations upon re-inspection;
- (3) the Company must maintain a conditional safety rating, and
- (4) ATeam Moving must pay the \$1,000 portion of the penalty that is not suspended within 10 days of the effective date of this Order or enter into a mutually agreeable payment arrangement with Staff. If Staff and the Company enter and the Commission approves such an arrangement and the Company fails to pay any installment by the due date, the entire remaining balance, including the suspended portion of the penalty, will immediately become due and payable without further Commission order.

### FINDINGS AND CONCLUSIONS

- 18 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including common carriers such as household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 19 (2) ATeam Moving is a household goods carrier subject to Commission regulation.
- 20 (3) ATeam Moving committed 110 violations of Chapter 480-15 WAC and Title 49 C.F.R., including 101 critical safety violations and 2 other violations that warrant penalties.
- 21 (4) ATeam Moving does not dispute that the violations occurred.
- 22 (5) ATeam Moving cured the deficiencies that led to the proposed unsatisfactory safety rating and submitted a safety management plan addressing the controls it has put in place to ensure the Company maintains compliance. Accordingly, the

Commission should approve ATeam Moving's safety management plan and not cancel its certificate.

- 23 (6) Pursuant to WAC 480-15-305(1)(b), the Commission should find good cause to extend ATeam Moving's provisional period until such time as the Company achieves a satisfactory safety rating.
- 24 (7) ATeam Moving should be penalized \$2,350 for 103 violations of Chapter 480-15 WAC and Title 49 C.F.R. The Commission should suspend a \$1,350 portion of the penalty for two years, and then waive it, subject to the conditions set out in Paragraph 17, above.

### ORDER

#### THE COMMISSION:

- 25 (1) Approves ATeam Moving, LLC's safety management plan.
- 26 (2) Upgrades ATeam Moving, LLC's safety rating to conditional.
- 27 (3) Extends ATeam Moving, LLC's provisional period until it achieves a satisfactory safety rating.
- 28 (4) Assesses a \$2,350 penalty against ATeam Moving, LLC. The Commission suspends a \$1,350 portion of the penalty for a period of two years and then waives it, subject to the conditions set out in Paragraph 17, above.

DATED at Lacey, Washington, and effective February 11, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*  
ANDREW J. O'CONNELL  
Administrative Law Judge

### NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-610(7) provides that any party to this proceeding has 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal, as required by WAC 480-07-140(5).